

REMARKS/ARGUMENTS

Claims 1-19 are pending and subject to both restriction and election requirements. Applicant respectfully traverses the restriction and election requirements and requests reconsideration of all Claim 1-19 based on the following remarks.

Restriction Requirement

Applicant respectfully traverses the election requirement between what the Office identifies as Group I (claims 1-13, polymeric foam composite) and Group II (claims 14-19, process of making a polymeric foam composite). Applicant provisionally elects Group I polymeric foam claims with traverse in view of the following remarks.

The only reason the Office provides to justify an election requirement between Claims 1-13 and Claims 14-19 is that Claim 1 is either anticipated or obvious over US 6319962 ('962). However, the halogen concentration range in the presently claimed invention is well above (more than 200% higher) than the express upper limit on halogen concentration allowed in '962. Therefore, Applicant struggles to see how '962 can anticipate or render obvious any of the present claims.

'962 discloses a foam that specifically contains "no more than 1.5% halogen" based on total weight of the foam forming reaction mixture (*see*, column 3, lines 42-47 and Claims 1 and 7. Note that column 4, line 5 limits the halogen concentration to "no more than 1.4%"). Moreover, the solution '962 proposes is expressly directed at using "minimal amounts of halogens." (*see*, column 3, lines 19-23).

In contrast, Claim 1 specifically requires at least 4 wt% halogen based on foam weight – with at least 10 wt% of that halogen concentration specifically coming from a highly-halogenated compound. The presently claimed halogen concentration range exceeds the express upper limit cited in '962 by over 200%! Therefore, Applicant fails to see how '962 can anticipate the foam of Claim 1. Furthermore, there is no suggestion or guidance in '962 to even try using a halogen concentration greater than 1.5% -- '962 expressly teaches just the opposite, that the halogen concentration must be no more than 1.5% and that they desire "minimal amounts of halogens". Therefore, Applicant fails to see how Claim 1 of the present Application can be obvious over '962. Since Claim 1 is neither obvious nor anticipated by '962, the present reason for the election requirement is insufficient to sustain the election requirement. Therefore, Applicant respectfully requests withdrawal of the restriction requirement and that all of Claims 1-19 stand as a single invention.

As further support for maintaining Group I and Group II claims as a single invention, Applicant is unaware of any way to prepare the foam of Group I claims apart from the process of Group II claims. As such, all claims necessarily share the same common technical features of the foam claims.

Election of Species

Applicant provides provisional elections below. Applicant believes Claim 1-7 and 9-19 are readable upon the elected species, when the species are given their proper scope:

Species A: Polymeric foam composition.

Applicant elects polyisocyanurate foam as set forth in Claim 1.

Species B: Fiber Distribution in the foam

Applicant provisionally elects distribution within region set forth in Claim 2. Applicant respectfully traverses the election of species requirement.

It may be of value to clearly articulate that Claim 2 merely defines a range in which fibers are necessarily present and is not meant to define a range in which the fibers are necessarily exclusively located. This interpretation is consistent with teaching on page 8, line 29 through page 9, line 13 of the present Application.

Both Claim 2 and Claim 12 depend from Claim 1 and narrow the scope of Claim 1 by stating a necessary extent of distribution of fiber within the foam. Claim 12 requires fibers uniformly throughout the foam – which necessarily includes fibers extending to the surface of the foam. Claim 2 requires fibers within a portion of the foam extending to within 0.125 inches of the foam surface. When fibers are uniformly distributed throughout the foam they are also distributed within the range set forth in Claim 2. Therefore, Claim 12 is readable on Claim 2 as consistent with and narrower in scope than Claim 2. Applicant respectfully requests reconsideration of allowing Claim 12, particularly upon allowance of Claim 1 or 2.

Species C: Fiber/Foam surface structural relationship

Applicant provisionally elects the limitation set forth in Claim 2. Applicant respectfully traverses the species election requirement with similar reasoning as Applicant set forth for the Species B election requirement. Both Claims 2 and 11 depend from Claim 1 and narrow the scope of Claim 1 by the extent of fiber distribution within the foam of Claim 1. Furthermore, Claim 11 is a narrower embodiment of the distribution of Claim 2. When fiber extends to a foam's surface, it necessarily extends to within 0.125 inches of the foam surface. Therefore, Claim 11 is a readable on Claim 2. If this species election is maintained, Applicant respectfully requests reconsideration of including Claim 12, particularly upon allowance of Claim 1 or 2.

Species D: Blowing Agent

Applicant provisionally elects blowing agent composition that is free of halogenated blowing agents (Claim 9).

Applicant respectfully requests reconsideration of Claim 8 upon allowance of Claim 1, from which both Claim 9 and Claim 8 currently depend – or allowance of another claim generic to the blowing agent.

Respectfully submitted,



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